

भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 2
PART II—Section 2
प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY



सं० 2ए] नई दिल्ली, शुक्रवार, फरवरी 22, 1974/फाल्गुन 3, 1895
No. 2A] NEW DELHI, FRIDAY, FEBRUARY 22, 1974/PHALGUNA 3, 1895

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed
as a separate compilation.

LOK SABHA

The following Report of the Joint Committee on the Bill to amend the Untouchability (Offences) Act, 1955 and further to amend the Representation of the people Act, 1951 was presented to Lok Sabha on the 22nd February, 1974:—

COMPOSITION OF THE COMMITTEE

*Shri S. M. Siddayya—Chairman

MEMBERS
Lok Sabha

2. Shri Nathu Ram Ahirwar
3. Shri Chhatrapati Ambesh
4. Shri Pannalal Barupal
5. Shri B. S. Bhaura
6. Shrimati B. Radhabai Ananda Rao
7. Shri Chandrika Prasad
- **8. Shri Amar Singh Chaudhari
- †9. Shri A. M. Chellachami
10. Shri Chhotey Lal
11. Shri Samar Guha
12. Shri Laxman Kakadya Dumada
13. Shri V. Mayavan
14. Shri Nageshwararao Meduri
- ‡15. Shri K. C. Pant

*Appointed Chairman w.e.f. 27.2.1973 Vice Shri R.D. Bhandare ceased to be a Member of Lok Sabha.

**Appointed w.e.f. 3.4.1973 vice Shri Subodh Hansda resigned.

†Appointed w.e.f. 3.4.1973 vice Shri D.P. Yadav resigned.

‡Appointed w.e.f. 3.4.1973 vice Shri R.D. Bhandare and resigned w.e.f. 22.12.73.

16. Shri Ram Surat Prasad
17. Shri Anantrao Patil
18. Shri Dhan Shah Pradhan
19. Shrimati Sahodrabai Rai
20. Shri Ramkanwar
21. Shri Ajit Kumar Saha
22. Shri Shibban Lal Saksena
23. Shri Arjun Sethi
24. Shri Chandra Shailani
25. Shri Shambhu Nath
26. Shri Shankar Dev
27. Shri Nawal Kishore Sharma
28. Shri Shankar Dayal Singh
29. Shri Somchand Solanki
30. Shri Phool Chand Verma

Rajya Sabha

31. Shri A. K. A. Abdul Samad
32. Shri M. C. Balan
- *33. Shri Jamna Lal Berwa
34. Shri Mahabir Dass
35. Shri Kalyan Chand
36. Kumari Saroj P. Khaparde
37. Shri Kota Punnaiah
38. Shri Shishir Kumar
39. Shri N. H. Kumbhare
40. Dr. K. Mathew Kurian
41. Shri Chaitanya Prasad Majhi
- **42. Shri Ram Niwas Mirdha
43. Shri Ram Sahai
44. Pandit Bhawaniprasad Tiwary
45. Shri Om Prakash Tyagi

LEGISLATIVE COUNSEL

1. Shri S. K. Maitra—*Joint Secretary and Legislative Counsel.*
2. Shri A. P. Pandey—*Assistant Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri S. Balakrishnan—*Joint Secretary.*
2. Shri O. K. Moorthy—*Director General (BCW).*
3. Shri M. P. Rodrigues—*Zonal Director (BCW).*

SECRETARIAT

Shri P. K. Patnaik—*Joint Secretary.*
Shri H. G. Paranjpe—*Deputy Secretary.*

*Reappointed w.e.f. 29.3.1973 *vice* Shri Bhola Paswan Shastri resigned.

**Appointed w.e.f. 29-3-1973 *vice* Prof. S. Nurul Hassan resigned.

REPORT OF THE JOINT COMMITTEE

I, the Chairman of the Joint Committee to which the Bill* to amend the Untouchability (Offences) Act, 1955 and further to amend the Representation of the People Act, 1951 was referred, having been authorised to submit the report on their behalf, present their Report with the Bill, as amended by the Committee, annexed thereto.

2. The Bill was introduced in Lok Sabha on the 13th April, 1972. The motion for reference of the Bill to a Joint Committee was moved in Lok Sabha by Prof. S. Nurul Hasan, Minister of Education, Social Welfare and Culture on the 30th May, 1972 and was adopted.

3. Rajya Sabha concurred in the said motion on the 1st June, 1972.

4. The message from Rajya Sabha was published in Lok Sabha Bulletin Part II dated the 2nd June, 1972.

5. The Committee held 24 sittings in all.

6. The first sitting of the Committee was held on the 15th June, 1972 to draw up their programme of work. The Committee decided to hear the views of the representatives of some of the organisations, associations, etc. in Delhi engaged in the welfare of the Scheduled Castes. The Committee authorised the Chairman to select a few and to invite them to give oral evidence before the Committee on the 1st and 2nd July, 1972.

7. 22 Memoranda/representations on the Bill were received by the Committee from various associations, organisations, etc.

8. At their second and third sittings held on the 1st and 2nd July, 1972, the Committee heard the evidence given by the following three organisations:—

(i) Harijan Sevak Sangh, Kingsway, Delhi.

Spokesman:

Shri Jiwanlal Jairamdas, Secretary.

(ii) Hind Sweepers Sevak Samaj (Central), New Delhi

Spokesmen:

1. Shri Jai Chandra
2. Shri J. P. Tiwari
3. Shri B. B. Shukla

*Published in the Gazette of India, Extraordinary Part II, Section 2, dated the 13th April, 1972.

(iii) Bharatiya Depressed Classes League, New Delhi

Spokesman:

Shri Kishore Bhai, Honorary Organising Secretary.

9. The Committee at their third sitting held on the 2nd July, 1972 decided to undertake on-the-spot study tours of some of the selected districts in some States to acquaint themselves with the working of the Untouchability (Offences) Act, 1955. The Committee further decided to split into two groups to undertake on the spot study visits. Study Group I visited, Puri, Bhubaneswar, Gaya, Varanasi, Nangal, Hoshiarpur, Jullundur and Bikaner from the 6th to 19th September, 1972 and Study Group II visited Gandhinagar, Ahmedabad, Mehsana, Rajkot, Bombay, Aurangabad, Mangalore, Bangalore, Madras, Madurai, Vijayawada, Nagpur and Bilaspur from the 14th to 30th September, 1972. Both Study Groups held informal discussions with the non-official organisations and officials of State Governments, etc. on the provisions of the Bill during the course of their visits.

10. At their sitting held on the 29th January, 1974, the Committee decided that two copies each of the (i) evidence tendered before them; (ii) Study Tour Notes of Groups I and II; and (iii) memoranda received by them from various associations, organisations, etc. might be placed in Parliament Library, after the report of the Committee was presented, for reference by the Members of Parliament.

11. The Report of the Joint Committee was to be presented by the 4th August, 1972. The Committee were granted five extensions of time—the first extension on the 3rd August, 1972 upto the 12th December, 1972; the second extension on the 8th December, 1972 upto the 19th February, 1973; the third extension on the 20th February, 1973 upto the 30th July, 1973; the fourth extension on the 24th July, 1973 upto the 16th November, 1973; and the fifth extension on the 14th November, 1973 upto the 22nd February, 1974.

12. The Committee considered the Bill clause-by-clause at their sittings held on the 23rd and 24th October and 31st December, 1973 and 1st, 2nd, 28th and 29th January, 1974.

13. The Committee considered and adopted the Report on the 18th February, 1974.

14. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

15. *New Clause 2.*—In view of the insertion of a new Explanation in Section 7, the long title of the Act has been so amended as to indicate that the Act also provides for punishment for the preaching of “untouchability”.

16. *New Clause 3.*—It has to be particularly noted that article 17 of the Constitution which abolishes “untouchability” is included in Part III which deals with the Fundamental Rights. By reason of the abolition of “untouchability” certain rights are conferred on those who are subjected to the disability of “untouchability” and, therefore, the law should mainly concern itself to protect those rights. Hence, more emphasis should be laid in order to protect those rights rather than punishing the

offenders who preach or practice untouchability in any form. Therefore, the Committee feel that the short title of the principal Act should be changed to the Protection of Civil Rights Act. This clause gives effect to the said recommendation of the Committee. Necessary supplemental provisions, consequent on the alteration of the short title of the Act, have been included in clauses 19 and 20 of the Bill.

17. *Clause 4 (Original clause 2).*—The Committee have made the following changes in section 2 of the Act:—

- (i) *Sub-clause (i).*—As the short title of the Untouchability (Offences) Act is sought to be changed to “The Protection of Civil Rights Act”, the Committee feel that the expression “civil rights” should be defined as a right accruing to a person by reason of the abolition of “untouchability” by article 17 of the Constitution.

A new definition has, accordingly, been inserted;

- (ii) *Sub-clause (ii).*—The Committee have expanded the definition of “place” to provide that place includes “other structures, premises and vehicles”;
- (iii) *Sub-clause (iii).*—The Committee have amended clause (d) to make it clear that where lands or subsidiary shrines, appurtenant to privately-owned places of worship are open to the person on the ground of “untouchability”;
- (iv) *Sub-clause (iv).*—Since the provisions included by the Committee in the Bill provide for framing of rules by the Central Government, the Committee have inserted a definition of the expression “prescribed”.

A definition of the expression “Scheduled Castes” has also been inserted in the Bill.

- (v) *Sub-clause (v).*—The Committee have enlarged the definition of “shop” so as to include places from where goods are sold by a hawker or vendor or from mobile van or cart.

Other changes which have been made are of a drafting or consequential nature.

18. *Clause 5 (Original clause 3)—Sub-clause (1).*—Under section 3 of the Act, prevention, on the ground of untouchability, of a person from entering any place of public worship which is open to other persons professing the same religion or belonging to the same religious denomination or any section thereof is a punishable offence. The effect of this provision is that if the person concerned did not belong to same religious denomination as the person preventing his entry, such prevention of entry into a denominational place of public worship will not be an offence. The Committee feel that, subject to the provisions of article 26 of the Constitution, places of public worship of any particular religion should be open to all persons belonging to the same religion. Consequently prevention of the entry, on the ground of “untouchability” of a person to any place of public worship established or maintained by a religious denomination should be an offence.

The Committee have, therefore, omitted the words "or belonging to the same religious denomination" from clauses (a) and (b) of section 3.

Sub-clause (ii).—It is at present punishable to prevent anyone on the ground of untouchability from bathing in, or using the waters of, any sacred tank, well, spring or water course. The Committee are of the view that prevention of any person on the ground of untouchability from bathing in, or using the water of any rivers and lakes should also be made punishable. Similarly, the prevention, on the ground of untouchability, of the use of ghats attached to such tanks, rivers and lakes should also be made punishable.

Clause (b) of section 3 of the Act has been amended accordingly.

Sub-clause (iii).—The minimum fine specified in the clause have been increased from fifty rupees to one hundred rupees and the maximum fine has been increased from two hundred rupees to five hundred rupees.

19. *Clause 6 (Original clause 3—Sub-clause (i).*—For the reasons specified for the amendments made by sub-clause (i) of clause 5, for the words "persons professing the same religion or belonging to the same religious denomination or any section thereof", the words "any section thereof" have been substituted.

Sub-clause (ii).—The Committee feel that cases of discrimination against the Scheduled Castes with regard to employment on the ground of untouchability will not be covered unless the section is amended. Hence, the words "or the employment in any job" have been inserted in clause (iii) of section 4 of the Act.

Sub-clause (iii).—The Committee feel that the enforcement of any disability on the ground of "untouchability" with regard to the taking part in, or taking out, any religious, cultural or social procession should also be made punishable. Clause (x) of section 4 has been amended accordingly.

Sub-clause (iv).—The Committee have increased minimum fine from fifty rupees as proposed in the Bill, to one hundred rupees and the maximum from two hundred rupees to five hundred rupees.

Sub-clause (v).—A new Explanation has been inserted to the effect that enforcement of a disability includes any discrimination on the ground of "untouchability".

20. *New Clause 7.—Sub-clause (i) clause (a)* of section 5 of the principal Act provides for punishment for refusing admission to any person to any hospital, dispensary, educational institution or any hostel attached thereto, if such hospital dispensary, educational institution or hostel is established or maintained for the benefit of the general public or any section thereof. The Committee feel that the refusal to admit any person on the ground of untouchability to any hostel whether it is attached to an educational institution or otherwise should be made punishable. The words "attached thereto" should, therefore, be omitted.

Sub-clause (ii).—The minimum fine has been increased from fifty rupees to one hundred rupees and the maximum fine has been increased from two hundred rupees to five hundred rupees.

22. *Clause 9 (Original clause 4).*—*Sub-clause (i).*—(a) The amend- increased from fifty rupees to one hundred rupees and the maximum fine has been increased from two hundred rupees to five hundred rupees.

22. *Clause 9 (Original clause 4)*—*Sub-clause (i).*—(a) The amend- ment is of a consequential nature; (b) the Committee feel that any per- son who insults or attempts to insult a member of a Scheduled Caste on the ground of “untouchability” should be made punishable under section 7.

New clause (d) has, therefore, been inserted in sub-section (1) of section 7; (c) The minimum fine has been increased from fifty rupees to one hundred rupees and the maximum fine has been increased from two hundred rupees to five hundred rupees.

(d) *Explanation I to sub-section (v) of Section 7.*—The Bill provides that a person shall be deemed to incite or encourage another person to practice untouchability if he justifies whether on historical, philosophi- cal or religious grounds, the practice of untouchability by such other person.

The Committee feel that for the purpose of clause (c) of section 7, a person should be deemed to incite or encourage the practice of untoucha- bility (i) if he directly or indirectly preaches untouchability or its prac- tice in any form, or (ii) if he justifies, whether on historical, philosophi- cal or religious grounds or on the ground of any tradition of the caste system or on any other ground, the practice of untouchability in any form

Explanation II to sub-section (1) of Section 7 of the Act has been sub- stituted accordingly.

Sub-clause (ii).—The Committee note that there are instances where, out of revenge for having exercised their rights accruing by reason of abolition of untouchability under article 17 of the Constitution, many per- sons have been subjected to violence. Such offences are no doubt punish- able under the Indian Penal Code, but that Code does not prescribe any minimum punishment. The Committee feel that where the offen- ces are committed against a person as a reprisal for the exercise by such person of any right accruing to him on account of the abolition of “un- touchability”, the minimum punishment should be imprisonment for a term which should not be less than two years to which fine should also be added, subject, however, to the condition that the offence itself is punishable with imprisonment for a term exceeding two years.

A new sub-section (1A) in section 7 has, accordingly, been inserted.

Sub-clause (iii).—The minimum fine has been increased from fifty rupees to one hundred rupees and the maximum fine has been increased from two hundred rupees to five hundred rupees.

23. *New Clause 10.*—The Committee feel that any person who unlaw- fully compels another person to do any scavenging, or sweeping or to remove any carcass or to flay any animal or to remove the umbilical record or to do any other job of similar nature on the ground of untouch- ability may be punished with imprisonment for a term which should not be less than three months and not more than six months and also with

fine which should not less than one hundred rupees and not more than five hundred rupees.

A new clause has been inserted accordingly.

24. *New Clause 11.*—Under section 9, a grant of land or money to a place of public worship may be resumed on conviction of the manager or trustee of such place of public worship for an offence under the Act. The Committee feel that a grant for an educational institution or hostel should also be resumed on the same ground. Section 9 has been amended accordingly.

25. *New Clause 12.*—The Committee feel that a public servant who shows any negligence in the investigation of any offence under the Act should be punishable as an abettor. Similarly, appointing authorities which show negligence in giving effect to the orders of the Government with regard to the reservation of posts for the Scheduled Castes shall be punishable as abettors. Section 10 is being amended accordingly.

26. *New Clause 13.*—Untouchability offences, in certain cases, are committed by the whole community in a particular area and it is necessary to curb this tendency. The Committee are, therefore, of the view that in order to meet such a situation, the State Governments should be empowered to impose a collective fine on the inhabitants of that area and to apportion the fine so imposed. It may be recovered in the manner as provided in the Code of Criminal Procedure for the recovery of fines by a Court as if such portion were a fine imposed by a Magistrate. The State Government should also be empowered to exempt the victims of any offence punishable under the Act or any other person who does not fall under the category of persons who are liable to be collectively fined, from the payment of collective fine or any portion thereof.

New clause 13 has been inserted accordingly.

27. *New Clause 15.*—A consequential amendment has been made in section 12 in view of the insertion of a definition of "Scheduled Castes".

28. *New Clause 16.*—This clause has been inserted with a view to protecting the actions of the Central or State Governments done in a good faith under the Act.

29. *Clause 17 (Original clause 6).*—The Committee feel that all offences under the Act other than those for which a minimum punishment exceeding three months has been provided may be tried summarily by a Magistrate of the First Class in accordance with the procedure prescribed in the Code of Criminal Procedure.

New section 15 has been inserted accordingly.

The Committee feel that the Central Government and each State Government, subject to such rules as the Central Government may make in this behalf, should take necessary measures for ensuring that the rights arising from the abolition of untouchability are made available to and are availed of by the persons subjected to any disability arising out of untouchability.

There should be adequate facilities including legal aid to such persons to enable them to avail themselves of such rights. Such measures

should include appointment of officers for initiating or exercising supervision over prosecutions under the Act, setting up of special courts for trials, setting up of committees at such appropriate levels as the State Government may think fit to assist the Government in formulating or implementing such measures, periodic survey of the working of the provisions of the Act, identification of areas where persons are under any disability arising out of untouchability and adoption of remedial measures taken by the Central|State Governments.

The Committee also feel that the Central Government should place a copy of the report on the measures taken by itself and by the State Governments under the Act, on the Table of each House of Parliament every year by which implementation of the Act comes up for scrutiny by Parliament.

New section 15A has been inserted accordingly.

30. *New Clause 18.*—In order to have the implementation of the provisions of the Act more effective, the Committee feel that the provisions of the Probation of Offenders Act, 1958 should not apply to persons found guilty under this Act.

New section 16A has been inserted accordingly.

In order to empower the Central Government to make rules to carry out the provisions of Act, new section 16B on the usual lines, has been inserted.

31. *New Clause 19.*—In view of the change in the short title of Act, provisions have been made for the construction of references in other Acts, Rules, etc. to the Untouchability (Offences) Act, 1955.

32. *New Clause 20.*—In view of the change in the short title to the Act, provisions for saving existing prosecutions, etc. have been included in new clause 20.

33. *Clause 21 (Original clause 7).*—The amendments made are of a consequential nature.

34. *Enacting Formula.*—The amendments made in the Enacting Formula are of a consequential nature.

35. The Joint Committee recommend that the Bill as amended, be passed.

NEW DELHI;
February 22, 1974.
Phalguna 3, 1895 (Saka).

S. M. SIDDAYYA,
Chairman,
Joint Committee,

MINUTES OF DISSENT

I

The object and reason behind the Amendment Bill are “plugging the loopholes and making the penal provisions more stringent”. But, in the Bill as amended and approved by the Joint Committee, there are still sufficient loopholes.

Some of our proposals for making the penal provisions of the Act more stringent giving deterrent punishments to those who commit offences in connection with the practice of untouchability, have been accepted either fully or partially by the Joint Committee. However, we disagree with the basic approach of the majority in the Committee on the diagnosis of the problem and the effective methods for implementing schemes for the eradication of untouchability.

The term “untouchability” has not been defined in the law. The Constitution makers, in their wisdom, left the word undefined. The Untouchability (Offences) Act, 1955, followed the same track. Despite very weighty arguments in favour of a rigorous, but comprehensive definition of the term, the Joint Committee in their majority report has again left the term undefined. The argument that any attempt to define untouchability will only narrow its scope cannot be sustained because the absence of a definition will, in fact, make it worse by leaving it sufficiently vague and elastic to suit the whims and fancies of legal pandits and the courts of law.

The experience of the last 26 years of independence, particularly the years since the adoption of the Constitution in 1950 and the Untouchability (Offences) Act in 1955, prove that untouchability, a course of Indian society for thousands of years, cannot be eradicated through constitutional and legal measures alone. The practice of untouchability is interwoven with the feudal and semi-feudal land relations in the rural areas and the religious and ideological super-structure of the bourgeois-landlord power structure in the country in general.

The Untouchability (Offences) Act, 1955 has remained virtually a dead legislative piece. Offences in connection with the practice of untouchability have been committed in increasing numbers and intensity in State after State; yet the penal provisions of the Act have seldom been used to curb such crimes.

In many places where Scheduled Castes have tried to assert their rights, rich landlords, money-lenders and rural oligarchies have resorted to social boycott and Nakabandi to bring them under submission. Out of fear, the aggrieved persons do not come forward to lodge complaints with the police. Even when such complaints are lodged, the police either do not register the complaints or dissuade the aggrieved persons from pursuing them. When the complaints are registered, the police do

not conduct the cases properly. And in the rare cases when the offence is established, only nominal punishment is awarded by courts; for instance, in one case a fine of Rs. 5 only was imposed. There are also instances in which the Scheduled Caste persons who lodge complaints with the police are subjected to third-degree methods to force them to compound the cases. No wonder that the number of cases in which offences under the Act are punished is an infinitesimally small proportion of the total number of crimes actually committed. In Punjab, during the period from 1969 to June 1972 the total number of cases registered under the Act was only 15. Out of these, 2 cases were compounded, 9 cases acquitted and 2 cases were pending in the courts. Conviction was possible only in 2 cases. The situation in other States is no better.

The overwhelming majority of Scheduled Castes and Scheduled Tribes live in the villages. As such, their emancipation is dependent upon the abolition of all forms of social and economic oppression by landlords, money-lenders and the caste-minded village oligarchies in general. The occupational structure of Scheduled Castes and Scheduled Tribes also indicate that their economic uplift cannot be achieved except as part of an overall strategy of solving poverty and unemployment among the rural poor, particularly the agricultural labourers and poor peasants.

The reports of the Commissioner for Scheduled Castes and the various surveys conducted by independent researchers conclusively prove that even after 26 years of independence the problem of untouchability has not been solved to any significant extent. Available records show that there has been steady rise in the number of registered cases relating to the practice of untouchability. Instead of taking a serious view of this alarming trend, political leaders, administrators and police officials often dismiss these facts as mere indications of "increasing awareness" among the Scheduled Castes regarding their rights. They try to explain away the phenomenon by asserting that the actual cases involving untouchability have gone down despite the increase in the number of cases recorded with the police. The fact of the matter is that, while overt forms of untouchability have possibly been on the decline, covert forms of untouchability have multiplied. As the class struggle in the village between landlords on the one hand and poor peasants and agricultural labour on the other gets intensified, old forms of open exhibition of the practice of untouchability get modified. They erupt in new and more aggressive forms.

A survey of 8 villages in Bihar, 4 each in the Districts of Gaya and Shahabad, found that according to 84 per cent of the respondents, Scheduled Castes were not allowed entry into the Shiva Temples for worship. The same situation prevailed in the Kali Temples also. About 85 per cent of the respondents informed that Scheduled Castes were prevented from drawing water from the wells used by high caste Hindus.

Even in temples managed by the Government the practice of untouchability is prevalent. In many places, hotels are barred from Scheduled Castes, Educational institutions which thrive on Government grants continue to practice untouchability with immunity. All these are made possible because of the fact that the high-ups in Government have a direct interest in the perpetuation of this crime. In a memorandum to the Prime Minister, the General Secretary of the Communist Party in

India (Marxist) had listed hundreds of cases of landlord and police terror against Harijans and tribals in Andhra Pradesh. It narrated gruesome and brutal actions by the police against Harijans.

The problem of untouchability is more complex and deep-rooted than what is apparent from reports of caste conflicts and prejudices. Whatever be the special circumstances in which caste system developed in India, in the conditions of today, that is, in the conditions of developing capitalism, caste oppression and exploitation have acquired a new socio-economic class content. The oppression of Harijans by landlords and money-lenders is no longer on the basis of mere caste prejudices, but is intensely related to the economic interests. In the intensifying class struggle in the villages, caste prejudices are relied upon by landlords and money lenders to perpetuate their class rule.

The capitalist path of development pursued by the bourgeois-landlord State apparatus in India requires the accumulation of huge surpluses. These surpluses are being appropriated through the most inhuman exploitation of the working people. The agricultural sector bears a double burden in this respect. Firstly, it has to provide surpluses for the industrial sector. Secondly, it has to raise resources for its own development. Thus, compared to the industrial labour, agricultural labour, consisting mostly of Scheduled Castes and Tribes, is subjected to a system of double exploitation. The traditional caste structure in India has been modified by the super-imposition of class exploitation.

In this struggle, the Indian State is not a passive on-looker. The political leadership, the administrative and police machinery and the judicial courts, are all responsible for the perpetuation of the crime. These instruments of State power are, in fact, active instruments on the side of bourgeois-landlord classes.

Untouchability is rooted in a culture based on social and economic exploitation. Abolition of untouchability, therefore, is possible only by abolishing the socio-economic system which breeds and protects exploitation of man by man.

The problem of untouchability, and indeed all the major problems concerning the Scheduled Castes and Scheduled Tribes, can be solved, in the ultimate analysis, only through a revolutionary change in the socio-economic and political structure in India.

Land is the key link in the emancipation of Scheduled Castes and Tribes. The ownership of land in the rural community by its very nature, enhances social status and economic independence and reduces the chances of social oppression. Unless the monopoly hold of landlords, both capitalist landlords and feudal landlords, on the agricultural land in the country is broken through radical land reforms and the surplus land distributed to landless agricultural workers and land-poor peasants, social oppression including the practice of untouchability cannot be effectively curbed. The spread of literacy and education and the guarantee of gainful employment are equally important measures in this direction.

NEW DELHI;
February 21, 1974.

K. MATHEW KURIAN
AJIT KUMAR SAHA

II

Need for a Built-in Statutory Machinery:

The main purpose of this amending Bill under Article 17 of the Constitution is to implement a basic national policy. It is, therefore, only appropriate that the very title of the Act has now been changed to "The Protection of Civil Right Act". The clear logical conclusion from this step is to have an appropriate enforcement apparatus. There can be no doubt about the fact that the overall responsibility for enforcement of such an Act must lie with the Centre, and hence there is an absolute need for a special machinery for that purpose. The Constitutional position is quite clear in this regard. For ensuring compliance with such a law made by Parliament the Centre can, not only give directions to a State Government under Article 256, but the law itself may confer powers and impose duties upon a State or officers and authorities thereof, according to Article 258(2). Further, Article 35(a) (ii) and (b) provide only for the Central legislation in regard to such a matter. Hence the Centre has to take responsibility for at least the *direction* and *coordination* of enforcement activities in respect of such an Act, and should not be left to the State Governments as has been done so far. Since the provisions of this Act constitute a national social policy acceptable to all States and territories, there can be no question of infringement of State autonomy by the Central direction and coordination in respect of such a policy. In fact, such a step should be welcome by all concerned.

It was the consensus of opinion of the Joint Committee on the Untouchability (Offences) Bill, 1954 that when this legislation came into force the Central Government and the State Governments should appoint *committees* to look into the *implementation* of the Act. The Committee further recommended that adequate steps should be taken by the Central Government and the State Governments on the administration side of the Act to see that the spirit of the Act is fully implemented.

This expectation of that Committee was completely belied in practice, as revealed by the Elayaperumal Committee Report of 1969. The latter Committee, therefore, strongly recommended for a clear-cut provision for establishment of a built-in machinery to guide and coordinate enforcement activity in the Central Act itself. The failure of the objectives of the Act is mainly due to the fact that there is no central agency which could actively coordinate and direct enforcement activity in the various States/Territories. Within each State, the same decentralized pattern is replicated. There is no special agency or staff for the enforcement of the law or coordination of the enforcement activities of local officials. There is not at any level any agency which systematically gathers information about the problems and policies of enforcement. The initiative is thus extremely decentralized. It is significant to note here that for some other central laws of lesser importance, from a basic policy point of view, e.g. prohibition, there are clear-cut provisions for enforcement machinery like special squads, task forces, coordinating officers and intelligence bureaus.

With a view to plugging this serious loophole in the present Act a new clause was sought to be incorporated in the amending Act. The suggested provision was for the appointment of an officer at the Centre to be known as "*Custodian of Civil Rights*" making him responsible for

giving general directions relating to matters arising out of the enforcement of the provisions of the Act and also for submitting an annual report on the working of the Act. Similar appointments of *Director and Asstt. Director of Civil Rights* were also to be made at the State and District levels respectively for carrying into execution the provisions of the Act. In fact, this agency should be extended to the taluka and village levels also. A machinery of this kind is obviously necessary if the idea is to protect the rights rather than merely punishing the offenders. Since the emphasis in the amending Act has now been shifted from the latter purpose to the former the suggested machinery has become all the more necessary. The positive and constructive nature of this provision required under the new complexion of the Act is clearly reflected in another new clause suggested to the Committee. The idea of having this clause was to specify the duties and responsibilities of the Assistant Directors of Civil Rights in a manner that would not only be helpful in *identifying the areas of social disability* but also conducive to the *methods of persuasion and conciliation* rather than punitive measures as hitherto done. The suggested provision was as follows :

“A survey of the district will be conducted by Assistant Director of Civil Rights for locating the area of social-disability in such manner as prescribed and shall submit a report as to the nature of untouchability being practiced and the extent of social disability to which the Scheduled Caste people are subjected.

Explanations: ‘Area of social disability’ is a place or places where members of Scheduled Castes, on account of their subjection could not exercise their right, accrued to them, by reason of the abolition of untouchability under Article 17 of the Constitution.

- (1) On receipt of the report from the Assistant Director and after making an enquiry as may deem appropriate and on being satisfied as to the situation existing at the place, the Director of Civil Rights will make a declaration specifying the area of social disability and other particulars as may be prescribed.
- (2) The area of social disability having been so declared the Assistant Director shall proceed to take such steps and in such manner as may be prescribed to deal with the situation, and shall endeavour to persuade the dominant class through conciliation and seek to create condition so that the members of the Scheduled Castes do not suffer from any social disability provided the said area will be kept under observation for such period as may deem necessary. Provided further the period of observation will not be for a period exceeding six months.
- (3) The Assistant Director of Civil Rights after having succeeded in his efforts in creating favourable conditions submit a report to the Director who will make a declaration accordingly, in the manner as may be prescribed.
- (4) The Assistant Director of Civil Rights having satisfied that he has failed in his efforts to create favourable conditions to facilitate enforcement of rights by members of the Scheduled Castes, submit a failure report to the Director of Civil Rights. This report shall contain the particulars as may be prescribed

including the names of the persons who are likely to commit or attempt to commit or abets the commission of an offence.

- (5) (A) The Sub-Divisional Magistrate having jurisdiction and specially empowered by the State Government in this behalf, will be given information of the persons referred to in the failure report by the Assistant Director of Civil Rights and the S.D.M. may require such persons to show cause why they should not be ordered to execute bond with surety for their good behaviour for such period not exceeding 3 years as the Magistrate may direct.
- (B) The provision of the Code of Criminal Procedure, 1896, shall in so far as they are applicable apply to any proceedings under sub-section (1) as if the bond referred to therein were a bond required to be executed under section 110 of the said Code."

It is not at all understood why the Government should prefer the vague measures of setting up committees at appropriate levels as may be necessary, and that too as part of guidelines only, to the suggestion for a built-in machinery, even after agreeing to submit to Parliament an annual report on the implementation of the Act. How can there be an annual report to Parliament without an appropriate central agency?

A possible objection to the establishment of such a special machinery on a country-wide scale might be the question of expenditure and the manpower involved in it. But there is no basis even for that objection. There is already an established machinery spread over the entire country to look after the welfare of backward classes. At the Centre there is the organization of the *Director General of Backward Classes Welfare* with his field staff of Zonal Directors. And at the State level there are the Directors of Social/Harijan Welfare with a network of officers at the district and even taluka levels. This existing machinery can be fully utilized for the purpose of affirmative implementation of this Act. It can effectively function by developing coordinated strategies of enforcement and thus promote the best use of resources allocated for enforcement. What is necessary is only to empower the Director General at the Centre and the Directors at the State level to discharge the duties cast on the Custodian of Civil Rights and the Directors of Civil Rights as spelt out in the suggested provisions. In fact, the last State Ministers' Conference has already accepted the policy of entrusting special responsibility under this Act to the existing State machinery, i.e., the organisation of the State Directors.

It is interesting to note further that there is a clear provision of Rs. 5 crores in the new Fifth Five Year Plan for creating a suitable machinery for the effective implementation of this very Act. The Committee has not been told about the nature of the machinery contemplated by the Government for this purpose. We, therefore, find no difficulty on the part of the Government to accept the suggestion for a built-in statutory machinery. It has to be realised by all concerned that the purpose of this special Act is to eradicate certain existing disabilities of a large section of our people, and hence it cannot remain on our Statute Book for ever. There has to be a *time-bound programme* to achieve the purposes of this Act. This obviously necessitates a suitable machinery for proper implementation of the Act within a set period. The entire

labour of the Joint Committee in improving the scope and coverage of the Act will be of no avail without a statutory provision for setting up a suitable machinery.

Status of a Scheduled Caste on Migration and Conversion:

There was an amendment for incorporation of the following two Explanations in the Amending Act :

Explanation I—A member of a Scheduled Caste shall not cease to be such member if he resides in any locality other than the locality specified in relation to him in any public notification issued or any law made by Parliament under Article 341 of the Constitution.

Explanation II—A member of a Scheduled Caste who has been converted from the Hindu religion to any other religion shall, notwithstanding such conversion, be deemed to be a member of Scheduled Caste for the purposes of this Act.

It was intended to give effect to some basic interests of the members of Scheduled Castes which are likely to be jeopardized as a result of their migration from one territory to another or on account of their conversion from the Hindu religion to any other religious faith as they continue to suffer from the stigma of untouchability even after their conversion to other faiths. These two explanations were incorporated as such by the Government itself in their original official Bill of 1954, and it is not known why they were later dropped. The genuine fears of the Scheduled Castes on these two accounts have been confirmed by the actual experience over the years since the Constitution was adopted. Hence this amendment was moved to re-incorporate the original provision in the legislation as put up by the Government. We cannot appreciate Government's rethinking in this regard, and strongly urge upon Parliament to accept this vital amendment to uphold the democratic and secular nature of our Constitution.

Definition of Untouchability:

There was a large number of amendments to the effect that "untouchability" should be defined in the Act itself, or alternatively, acts constituting untouchability should be listed out comprehensively. The Constitution does not define "untouchability" nor is it clear what constitutes its "practice in any form" or "a disability arising out of 'untouchability.'" Although the meaning of the constitutional command still remains unclear in some important respects, the work of the courts so far provides only some guidelines. The Mysore High Court inferred that "the subject matter of article 17 is not untouchability in a literal or grammatical sense but the practice of it as it had developed historically in this country". But this provides only a poor guide to the lower courts in interpreting the provisions of the Act. Actually, the Government, the legislature and the courts all tend to define the term *denotatively*—by pointing to well known examples of its practice rather than *connotatively*—by specifying boundary criteria. How then can the judge as trier of fact decide whether this complex and obscure notion of untouchability was a component of the mental state of the accused at the time of the purported offence? Obviously, there is a need for clear-cut guidelines about the implications of the term.

A specific definition was suggested to the Joint Committee on these lines:—

“‘Untouchability’ means and includes subjecting a member of the Scheduled Castes or others to any discrimination, disability, suffering, restriction, liability or a condition on the ground of pollution and isolation, caste, race, religion or any of them of such person or of his parents or family.”

The Government was requested to improve upon it, if necessary, with a view to adopting it in the Act itself. But the Government's view was that the term is impossible to define. We do not accept this position and urge upon Parliament to have its way for incorporating an inclusive definition of the term in the Act.

Protection against Social Boycott:

Although some clauses have been added to the provisions of the Act for protection against the practice of organised boycott against Scheduled Castes, there is need for some more specific measures for prevention of such crimes. It has to be admitted that in such matter preventive measures are more useful than the remedial steps. It is, therefore, suggested that the following clause should be added to the section dealing with boycott:

“Whoever, on the ground of untouchability—

- (a) Publicly makes or publishes or circulates a proposal for, or
- (b) Makes, publishes or circulates any statement, rumour or report with intent to, or which he has reason to believe to be likely to cause, or
- (c) In any other way instigates or promotes, the boycotting of any person or class of persons shall be punished with imprisonment which may extend to two years or with fine or with both.

Explanation.—An offence under this section shall be deemed to have been committed although the person affected or likely to be affected by any action of the nature referred to herein is not designated by name or class but only by his acting or abstaining from acting in some specified manner.

To strengthen the provision in this regard there is also a need for inserting the following further clause:

- “(a) In any case in which a person has been convicted of an offence under this Act the Magistrate may, in lieu of or in addition to any sentence passed thereunder, require such person to execute a bond, with or without sureties, to be of good behaviour for such period, not exceeding one year, as the Magistrate thinks fit.
- (b) The provisions of Chapter XLII of the Code of Criminal Procedure, 1898, shall apply to all bonds taken under this section.”

In view of the correct atrocities against the Scheduled Castes throughout the country it is very essential to provide for both these clauses in the Act as preventive measures.

Contract compliance, aid suspension, etc.:

A number of amendments were suggested to the Joint Committee for making a clear-cut provision in the Act for suspension or even termination of a Government contract and for stoppage of grants or aid to various organisations and even withdrawal of their recognition etc. In case of any act or omission which is an offence under this Act. It is not understood why the Government was not agreeable to accept such a provision. If the Government had cared to know the methods and manner of implementing the Civil Rights Acts in the U.S.A., Canada and elsewhere, they could not have opposed such innocuous amendments. In the U.S.A., for example, a whole department has been made responsible to look after the contract compliance procedures for implementation of Civil Rights in that Country. We, therefore, strongly urge upon the Parliament to accept these vital amendments, with some modifications, if necessary for incorporation in the Act. In regard to disqualifying a person convicted under this Act for election to local bodies, provision could be made at least as a guide-line to State Governments.

Fixing Responsibility for Public Servants:

With a view to ensuring proper discharge of duties and responsibilities by public servants the Committee has provided for a new offence for negligence of duties by such officers. It is, however, to be noted that although a new offence has thus been created for the first time, no punishment has been provided for it. This is a serious lacuna which needs to be rectified in the final Act.

Entry to denominational temples:

The Joint Committee has no doubt been successful in removing a real bottle-neck by withdrawing the restrictive interpretation of the temple-entry provisions in the Act on account of the 'denomination' qualifier. It is, however, not understood why this liberal interpretation of the provision has been made subject to the provisions of Article 26 of the Constitution. The Supreme Court has recently (1966) suggested that a sect's (denomination's) apprehension about the pollution for their temple by Untouchables "is founded on superstition, ignorance and complete misunderstanding of the true teachings of the Hindu religion..." But even if the Court did not take an activist stance in estimating the religious character of the practice, and was willing to recognize the claim as a religious one, it is clear from the *Venkataramana Devaru* case that the religious rights would run subordinate to the rights conferred by the temple-entry power under Article 25(2) (b) and Article 17 of the Constitution. There is a strict distinction between religious grounds and obnoxious social practices, and in case of conflict, it is the anti-untouchability policy which would prevail. For the temple-entry power reaches even those practices considered essential to a sect.

The language of article 17 of the Constitution which outlaws the practice of untouchability "in any form" is broad enough to be read to confer directly on every person a right to be free from caste action against him for the purpose of enforcing untouchability. The abolition of untouchability was presumably meant to liberate all Indians from this evil, not only Untouchables.

PANNALAL BARUPAL
B. S. BHAURA
RAMKANWAR
N. H. KUMBHARE

NEW DELHI;
February 21, 1974.

Bill No. 31-B of 1972

THE UNTOUCHABILITY (OFFENCES) AMENDMENT AND
MISCELLANEOUS PROVISION BILL, 1972

(AS REPORTED BY THE JOINT COMMITTEE)

[Words side-lined or underlined indicate the amendments suggested by
the Joint Committee]

A

BILL

to amend the Untouchability (Offences) Act, 1955 and further to amend
the Representation of the People Act, 1951.

Be it enacted by Parliament in the Twenty-fifth Year of the Republic
of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Untouchability (Offences) Amend-
ment and Miscellaneous Provision Act, 1974.

Short
title
and
com-
mence-
ment.

(2) It shall come into force on such date as the Central Government
may, by notification in the Official Gazette, appoint.

CHAPTER II

AMENDMENT OF THE UNTOUCHABILITY (OFFENCES) ACT, 1955

22 of 1955.

2 In the Untouchability (Offences) Act, 1955 (hereinafter referred to
as the principal Act), in the long title, for the words 'practice of "Untouch-
ability"', the words 'preaching and practice of "Untouchability"' shall
be substituted.

Amend
ment of
the long
title

Amend-
ment of
section 1.

3. In section 1 of the principal Act, in sub-section (1), for the words and brackets "the Untouchability (Offences) Act", the words "the Protection of Civil Rights Act", shall be substituted.

Amend-
ment of
section 2.

4. In section 2 of the principal Act,—

(i) clause (a) shall be re-lettered as clause (aa), and before clause (aa) as so re-lettered, the following clause shall be inserted, namely:—

'(a) "civil rights" means any right accruing to a person by reason of the abolition of "untouchability" by article 17 of the Constitution;';

(ii) for clause (b), the following clause shall be substituted, namely:—

'(b) "place" includes a house, building and other structure and premises; and also includes a tent, vehicle and vessel;';

(iii) in clause (d), for the words "and includes all lands and subsidiary shrines appurtenant or attached to any such place;", the following shall be substituted, namely:—

"and includes—

(i) all lands and subsidiary shrines appurtenant or attached to any such place,

(ii) a privately owned place of worship which is, in fact, allowed by the owner thereof to be used as a place of public worship, and

(iii) such land or subsidiary shrine appurtenant to such privately owned place of worship as is allowed by the owner thereof to be used as a place of public religious worship;";

(iv) after clause (d), the following clauses shall be inserted, namely:—

'(da) "prescribed" means prescribed by rules made under this Act;

(db) "Scheduled Castes" has the meaning assigned to it in clause (24) of article 366 of the Constitution;';

(v) in clause (e), for the words "and includes a laundry, a hair cutting saloon and any other place where services are rendered to customers", the following shall be substituted, namely:—

"and includes—

(i) any place from where goods are sold by a hawker or vendor or from a mobile van or cart,

(ii) a laundry and a hair cutting saloon,

(iii) any other place where services are rendered to customers".

5. In section 3 of the principal Act,—

Amend-
ment of
section 3.

(i) in clause (a), the words "or belonging to the same religious denomination" shall be omitted;

(ii) in clause (b),—

(a) after the word "water-course," the words "river or lake or bathing at any ghat of such tank, water-course, river or lake" shall be inserted;

(b) the words "or belonging to the same religious denomination" shall be omitted;

(iii) for the words "shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both", the words "shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees" shall be substituted.

6. In section 4 of the principal Act,—

Amend-
ment of
section 4.

(i) for the words "persons professing the same religion or belonging to the same religious denomination or any section thereof, as such person", wherever they occur, the words "any section thereof" shall be substituted;

(ii) in clause (iii), after the words "trade or business" the words "or employment in any job" shall be inserted;

(iii) in clause (x), for the words "taking part in any religious procession", the words "taking part in, or taking out, any religious, social or cultural procession" shall be substituted;

(iv) for the words "shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both", the words "shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees" shall be substituted;

(v) the following *Explanation* shall be inserted at the end, namely:—

Explanation.—For the purposes of this section, "enforcement of any disability" includes any discrimination on the ground of "untouchability".

7. In section 5 of the principal Act,—

Amend-
ment of
section 5.

(i) in clause (a), the words "attached thereto" shall be omitted;

(ii) for the words "shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both", the words "shall be punishable with

imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees" shall be substituted.

8. In section 6 of the principal Act, for the words "shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both", the words "shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees" shall be substituted.

Amend-
section 7.

9. In section 7 of the principal Act,—

(i) in sub-section (1),—

(a) in clause (c), the word "or" shall be inserted at the end;

(b) after clause (c), as so amended, the following clause shall be inserted, namely:—

'(d) insults or attempts to insult, on the ground of "untouchability", a member of a Scheduled Caste';

(c) for the words "shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both", the words "shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees" shall be substituted;

(d) the *Explanation* shall be re-numbered as *Explanation I*, and after *Explanation I* as so re-numbered, the following *Explanation* shall be inserted, namely:—

'*Explanation II.*—For the purposes of clause (c), a person shall be deemed to incite or encourage the practice of "untouchability"—

(i) if he, directly or indirectly, preaches "untouchability" or its practice in any form; or

(ii) if he justifies, whether on historical, philosophical or religious grounds or on the ground of any tradition of the caste system or on any other ground, the practice of "untouchability" in any form;'

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

'(1A) Whoever commits any offence against the person or property of any individual as a reprisal or revenge for his having exercised any right accruing to him by reason of the abolition of "untouchability" under article 17 of the Constitution, shall, where the offence is punishable with imprisonment for a term exceeding two years, be punishable with imprisonment for a term which shall not be less than two years and also with fine.'

(iii) in sub-section (2), in clause (ii), for the words "shall be punishable with imprisonment which may extend to six months or with fine which may extend to five hundred rupees, or with both" the words "shall be punishable with imprisonment for a term of not

less than one month and not more than six months, and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees" shall be substituted.

10. After section 7 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
7A.

'7A. (1) Whoever compels any person, on the ground "untouchability", to do any scavenging or sweeping or to remove any carcass or to flay any animal or to remove the umbilical cord or to do any other job of a similar nature, shall be deemed to have enforced a disability arising out of "untouchability".

Unlawful
compul-
sory
labour
when
to be
deemed
to be a
practice
of un-
touchabi-
lity.

(2) Whoever is deemed under sub-section (1) to have enforced a disability arising out of "untouchability" shall be punishable with imprisonment for a term which shall not be less than three months and not more than six months and also with fine which shall not be less than one hundred rupees and not more than five hundred rupees.

Explanation.—For the purposes of this section, "compulsion" includes a threat of social or economic boycott.

11. In section 9 of the principal Act, after the words "place of public worship", the words "or any educational institution or hostel" shall be inserted.

Amend-
ment of
section 9.

12. In section 10 of the principal Act, the following *Explanations* shall be inserted at the end, namely:—

Amend-
ment of
Section 10.

Explanation I.—A public servant who shows any negligence in the investigation of any offence punishable under this Act shall be deemed to have abetted an offence punishable under this Act.

Explanation II.—Any appointing authority in relation to any service or post in connection with the affairs of—

- (a) the Union or any State Government;
- (b) any corporation or undertaking owned or controlled by the Central or State Government, or by both;
- (c) any authority or body established by any Central, State or Provincial Act;
- (d) any local authority,

who shows any negligence in giving effect to the orders of the appropriate authority relating to the reservation of posts for the employment of the members of the Scheduled Castes shall be deemed to have abetted an offence punishable under this Act."

13. After section 10 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
10A.

"10A. (1) If, after an inquiry in the prescribed manner, the State Government is satisfied that the inhabitants of an area are concerned in, or abetting the commission of, any offence punishable under this Act, or harbouring persons concerned in the commission of such offence or failing to render all the assistance in their power to discover or apprehend the offender or offenders or suppressing material evidence of the commission of such offence, the

Power of
State Gov-
ernment
to impose
collective
fine.

State Government may, by notification in the Official Gazette, impose a collective fine on such inhabitants and apportion such fine amongst the inhabitants who are liable collectively to pay it, and such apportionment shall be made according to the State Government's judgment of the respective means of such inhabitants and in making any such apportionment, the State Government may assign a portion of such fine to a Hindu undivided family to be payable by it:

Provided that the fine apportioned to an inhabitant shall not be realised until the petition, if any, filed by him under sub-section (3) is disposed of.

(2) The notification made under sub-section (1) shall be proclaimed in the area by beat of drum or in such other manner as the State Government may think best in the circumstances to bring the imposition of the collective fine to the notice of the inhabitants of the said area.

(3) (a) Any person aggrieved by the imposition of the collective fine under sub-section (1) or by the order of apportionment, may, within the prescribed period, file a petition before the State Government or such other authority as that Government may specify in this behalf for being exempted from such fine or for modification of the order of apportionment:

Provided that no fee shall be charged for filing such petition.

(b) The State Government or the authority specified by it shall, after giving to the petitioner a reasonable opportunity of being heard, pass such order as it may think fit:

Provided that the amount of the fine exempted or reduced under this section shall not be realisable from any person, and the total fine imposed on the inhabitants of an area under sub-section (1) shall be deemed to have been reduced to that extent.

(4) Notwithstanding anything contained in sub-section (3), the State Government may exempt the victims of any offence punishable under this Act or any person who does not, in its opinion, fall within the category of persons specified in sub-section (1), from the liability to pay the collective fine imposed under sub-section (1) or any portion thereof.

(5) The portion of collective fine payable by any person (including a Hindu undivided family) may be recovered in the manner provided by the Code of Criminal Procedure, 1898, for the recovery of fines imposed by a Court as if such portion were a fine imposed by a Magistrate."

Amend-
ment of
section 11

14. In section 11 of the principal Act, for the words "shall, on every such subsequent conviction, be punishable with both imprisonment and fine", the words, brackets and letters "shall, on conviction, be punishable—

(a) for the second offence, with imprisonment for a term of not less than six months and not more than one year, and also with fine which shall be not less than two hundred rupees and not more than five hundred rupees;

(b) for the third offence or any offence subsequent to the third offence, with imprisonment for a term of not less than one year and not more than two years, and also with fine which shall be not less than five hundred rupees and not more than one thousand rupees" shall be substituted.

15. In section 12 of the principal Act, the words, brackets and figures "as defined in clause (24) of article 366 of the Constitution" shall be omitted. Amendment of section 12.

16. After section 14 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 14A.

"14A. (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or a State Government for anything which is in good faith done or intended to be done under this Act. Protection of action taken in good faith.

(2) No suit or other legal proceeding shall lie against the Central Government or a State Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act."

17. For section 15 of the principal Act, the following sections shall be substituted, namely:— Substitution of section 15.

"15. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, every offence punishable under this Act shall be cognizable and every such offence, except where it is punishable with imprisonment for a minimum term exceeding three months, may be tried summarily by a Magistrate of the first class in accordance with the procedure specified in the said Code. Offences to be cognizable and triable summarily.

15A. (1) Subject to such rules as the Central Government may make in this behalf, the State Government shall take such measures as may be necessary for ensuring that the rights arising from the abolition of "untouchability" are made available to, and are availed of by, the persons subjected to any disability arising out of "untouchability". Duty of State Government to ensure that the rights accruing from the abolition of "untouchability" may be availed of by the concerned persons.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), such measures may include—

(i) the provision of adequate facilities, including legal aid, to the persons subjected to any disability arising out of "untouchability" to enable them to avail themselves of such rights;

(ii) the appointment of officers for initiating or exercising supervision over prosecutions for the contravention of the provisions of this Act;

(iii) the setting up of special courts for the trial of offences under this Act;

(iv) the setting up of Committees at such appropriate levels as the State Government may think fit to assist the State Government in formulating or implementing such measures;

(v) provision for a periodic survey of the working of the provisions of this Act with a view to suggesting measures for the better implementation of the provisions of this Act;

(vi) the identification of the areas where persons are under any disability arising out of "untouchability" and adoption of such measures as would ensure the removal of such disability from such areas.

(3) The Central Government shall take such steps as may be necessary to co-ordinate the measures taken by the State Governments under sub-section (1).

(4) The Central Government shall, every year, place on the Table of each House of Parliament, a report on the measures taken by itself and by the State Governments in pursuance of the provisions of this section."

Insertion
of new
sections
16A and
16B.

18. After section 16 of the principal Act, the following sections shall be inserted, namely:—

Probation
of Offenders
Act,
1958 not
to apply.

"16A. The provisions of the Probation of Offenders Act, 1958, shall not apply to any person found guilty of having committed any offence punishable under this Act.

20 of 1958.

Power
to make
rules.

16B. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

CHAPTER III

MISCELLANEOUS

Construc-
tion of
refer-
ences.

19. References in any Act, rule, notification or order to the Untouchability (Offences) Act, 1955, shall, on the commencement of the Untouchability (Offences) Amendment and Miscellaneous Provision Act, 1974, be construed as references to the Protection of Civil Rights Act, 1955.

22 of 1955.

Savings.

20. The alteration of the short title of the Untouchability (Offences) Act, 1955, shall not—

22 of 1955.

(a) affect the previous operation of the Untouchability (Offences) Act, 1955, or anything duly done or suffered thereunder previous to such alteration; or

(b) affect any right, privilege, obligation or liability acquired, accrued or incurred under the Untouchability (Offences) Act, 1955, previous to the alteration of its short title; or

22 of 1955.

(c) affect any penalty or punishment incurred in respect of any offence committed against the Untouchability (Offences) Act, 1955, before the commencement of the Untouchability (Offences) Amendment and Miscellaneous Provision Act, 1974; or

(d) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty or punishment may be imposed as if the Untouchability (Offences) Amendment and Miscellaneous Provision Act, 1974, had not been passed.

CHAPTER IV

AMENDMENT OF THE REPRESENTATION OF THE PEOPLE ACT, 1951

21. In section 8 of the Representation of the People Act, 1951, in sub-section (1), after the words "the Indian Penal Code," the words and figures "or under the Protection of Civil Rights Act, 1955" shall be inserted.

Amend-
ment of
Act 43
of 1951.

S. L. SHAKDHER,
Secretary-General.

